

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTEENTH REGION

Carrollton, Missouri

H. D. GRIFFIN CONSTRUCTION CO., INC.

Employer

and

Case 17-RC-12236

PIPELINERS LOCAL UNION 798, UNITED ASSOCIATION OF PLUMBERS  
AND PIPEFITTERS OF THE UNITED STATES AND CANADA, AFL-CIO

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 1/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 2/

All rig welders, single hand welders, and welders' helpers, excluding all laborers, operating engineers, truck drivers, office clericals, guards and supervisors as defined in the Act.

**DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

PIPELINERS LOCAL UNION 798, UNITED ASSOCIATION OF PLUMBERS AND PIPEFITTERS  
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**LIST OF VOTERS**

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned/Officer-in-Charge of the Subregion who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the **Regional Office**, 8600 Farley Street - Suite 100, Overland Park, Kansas 66212-4677 on or before **December 23, 2003**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

**RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **December 30, 2003**.

Dated December 16, 2003

at Overland Park, Kansas

/s/ Leonard P. Bernstein  
Acting Regional Director, Region 17

- 1/ The Employer, a corporation with an office and place of business in Carrollton, Missouri, is engaged in pipeline construction, rehabilitation, and maintenance. During the previous 12 months, a representative period of time, the Employer, in the course and conduct of its operations described above, sold and shipped goods and services valued in excess of \$50,000 directly to customers located outside the State of Missouri and purchased and received goods and services valued in excess of \$50,000 directly from sources located outside the State of Missouri.
- 2/ The Petitioner initially sought a unit consisting of all rig welders employed by the Employer in the Continental United States, excluding all other employees, including office clerical employees, and guards and supervisors as defined in the Act. During the hearing, the parties stipulated that any unit found appropriate should include rig welders and exclude all laborers, operating engineers, truck drivers, office clericals, guards and supervisors as defined in the Act.

## **ISSUES**

The first issue concerns whether the welders are an appropriate craft unit. The Petitioner contends that the Employer's welders are a distinct group of skilled craftsman and, therefore, that a craft unit is appropriate. Conversely, the Employer contends that welders are not an appropriate craft unit because they lack formalized training and their work is functionally integrated with the work performed by welders' helpers.

The second issue is the unit placement of welders' helpers. The Petitioner argues that the welders' helpers should be excluded from the unit because of the unskilled nature of their duties, which include tasks that are not related to welding. The Employer contends that the functional

integration of the work performed by welders and welders' helpers, the welders' and helpers' similar terms and conditions of employment, and the parties' bargaining history, dictate including the welders' helpers in the unit.

The final issue involves whether the unit should be limited to rig welders or whether it should also include the classification of single hand welders. The Petitioner contends that single hand welders should be excluded from the unit. The Petitioner argues that the Employer does not currently employ any single hand welders and that employers engaged in pipeline construction traditionally do not employ single hand welders. The Employer, on the other hand, contends that, although it has not employed single hand welders since approximately 1995, it maintains the equipment necessary to employ single hand welders and does not exclude qualified single hand welders from employment.

Based on my review of the record and relevant authority, I find that the Employer's rig welders and single hand welders constitute an appropriate craft unit. I also find that it is appropriate to include the welders' helpers in the unit.

## **BACKGROUND**

The Employer performs construction and maintenance work for various pipeline companies including Panhandle Eastern Pipeline, Southern Star Central Gas Pipeline, and British Petroleum Pipelines, North America. The Employer employs approximately 32 employees, including supervisors, helpers, welders, laborers, and truck drivers, and is currently performing work on a natural gas pipeline in Lenexa, Kansas and a crude oil pipeline in Rutledge, Missouri.

The parties stipulated, and I find, that Superintendent and Vice President Roger Schnare, Foreman Larry Smoot, Superintendent and Secretary/Treasurer Charlie Rodenberg, Foreman

Floyd Jacobs, Foreman Charles Rodenberg, Jr., and Superintendent Roger Davis possess and exercise authority, in the interest of the Employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action with independent judgment, and are supervisors within the meaning of Section 2(11) of the Act. Accordingly, I will exclude the above-named individuals from the unit.

### **WELDERS AND WELDERS' HELPERS**

The Employer currently employs six welders. Welders are responsible for cutting pipe that a pipeline company wishes to remove. After removing the old pipe, welders cut a replacement piece of pipe, and, with the assistance of a welders' helper, clamp the new section of pipe into place. To weld the pipe into place, welders begin by applying a stringer bead. After the initial pass or stringer bead is ground, welders make a second or hot pass. After the weld is buffed, depending on the thickness of the pipe wall, welders then make additional filler passes.

To work in the pipeline industry, welders must meet standards established by the Department of Transportation (DOT). Although the DOT establishes the standards, pipeline companies actually administer the tests. Accordingly, the type of test that a welder must pass varies by job and by pipeline company. One example of a test required by some companies is a destructive test, which was developed by the American Petroleum Institute. After welders complete a weld, it is ground and then bent to test the weld's resiliency. An alternative to a destructive test, an x-ray test, involves an examination of the weld by xray. Welders are required to pass a welding test before beginning work for a pipeline company and must periodically retest thereafter.

Additionally, the DOT requires welders, along with other employees, to pass a test certifying that they are qualified operators.

Welders learn their craft either from on-the-job training or from a technical school. Welder Bradley Mudd testified that he spent approximately 7 months at a technical school and then worked for approximately a 1 ½ years at a plant before becoming a pipeline welder.

In addition to its welders, the Employer also employs six or seven welders' helpers or helpers. Helpers are responsible for preparing the ends of pipe that are to be welded and then assisting the welder in aligning and clamping the new section of pipe. After welders make an initial weld, helpers are responsible for grinding the stringer bead. With each subsequent pass that welders make, helpers are responsible for buffing the weld. Additionally, helpers hand weld welding rods and adjust the heat of the welding machines. During the times that welders are not welding, helpers perform other tasks such as loading skids.

Although helpers are required to possess DOT operator qualifications, they are not required to pass any additional tests other than drug tests. The Employer does not require its helpers to have any prior training or schooling. Helpers receive on-the-job training, the length of which varies for each individual helper. As Vice President and Superintendent Roger Schnare testified, aside from the operator qualifications and drug tests, the only additional requirement to become a helper is sufficient physical strength to hold and to operate a buffer.

#### **APPROPRIATENESS OF A CRAFT UNIT OF WELDERS**

Section 9(b) of the Act confers on the Board the discretion to establish a unit appropriate for collective bargaining and to decide whether such unit shall be an employer unit, craft unit, plant unit, or subdivision thereof. A craft unit is one consisting of a distinct and homogenous group of

skilled journeymen craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks that are not performed by other employees and that require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1994), citing *Phoenician*, 308 NLRB 826 (1992). To determine whether a petitioned-for unit constitutes a separate craft, the Board examines several factors including: (1) whether the petitioned-for employees participate in a formal training or apprenticeship program; (2) whether the work is functionally integrated with the work of the excluded employees; (3) whether the petitioned-for employees' duties overlap with the duties of the excluded employees; (4) whether the employer assigns work according to need rather than along craft lines; and (5) whether the petitioned-for employees share common interests with other employees, including wages, benefits, and cross-training. *Id.* (citations omitted).

From the record it appears that welders, with the assistance of helpers, perform work that is not performed by other employees, as welders and welders' helpers are exclusively responsible for welding and welding-related duties. Cf. *Brown & Root Braun*, 310 NLRB 632, 634 (1993). There is no evidence that welders' duties overlap with any of the Employer's other employees except welders' helpers. See *Union Carbide Corp. Chemicals Div.*, 156 NLRB 634, 639-640 (1966).

Additionally, although welders obtain training from a variety of sources and are not required to receive any national accreditation or certification, this does not preclude finding a craft unit appropriate. See, e.g. *Hughes Aircraft Co.*, 117 NLRB 98, 100-101 (1957). Based on the record, it appears that the Employer's welders are skilled craftsman who perform distinct tasks utilizing specialized equipment. Cf. *E. I. DuPont & Co.*, 116 NLRB 286, 289 (1956). As Welder Bradley Mudd testified, even after completing a technical school program devoted to welding, he did not

feel qualified to become a pipeline welder. Whether the welders have developed their welding acumen through a trade or technical school or from on-the-job experience, I find that their work is skilled and specialized and that a craft unit is appropriate. See *Burns & Roe*, 313 NLRB at 1308. Furthermore, although welders' work is functionally integrated with the work performed by welders' helpers, as discussed below, this fact does not preclude finding a craft unit appropriate. Accordingly, I find that a craft unit including the Employer's welders is appropriate.

### **INCLUSION OF WELDERS' HELPERS**

In defining a craft unit, the Board traditionally includes craft members and their helpers. See *Burns & Roe*, 313 NLRB at 1308. The Board, however, will exclude helpers from a craft unit if they are assigned to assist multiple crafts or are routinely transferred between departments. See *Brown & Root Braun*, 310 NLRB at 635; *Shell Chemical Corp.*, 81 NLRB 965, 967 fn. 11 (1949); *General Petroleum Corp.*, 81 NLRB 749, 750 (1949).

Welders' helpers load skids or perform other miscellaneous work when they are not assisting welders. Nevertheless, the record reveals that welders' helpers nearly always accompany welders when they are performing any welding. Accordingly, although welders' helpers occasionally perform other tasks when there is no welding taking place, I find that the functional integration between welders' work and that performed by welders' helpers requires including welders' helpers in the unit.

The helpers and welders perform distinct tasks, but their work is functionally integrated to an overwhelming degree. Together, welders and helpers are responsible for removing, replacing, welding, grinding, and buffing pipe. During the time that welders are welding, helpers assist



them in a variety of ways, from grinding and buffing welds to adjusting the heat on the welding machines. As the record establishes, it would take welders significantly longer to complete their tasks without the assistance of a helper.

Welders' and helpers' terms and conditions of employment also weigh in favor of including helpers in the unit. Although welders earn significantly more than welders' helpers, they work the same hours, have common supervision, and are eligible for similar fringe benefits, including health insurance, individual retirement accounts, and bonuses.

Although helpers do not possess welding skills and do not progress to welding positions, my review of the relevant authority has failed to uncover such a requirement. On the contrary, the Board's historical inclusion of craftsman and their "helpers or apprentices" suggests that the potential for advancement is not a requirement.

Finally, in accessing whether welders and welders' helpers are an appropriate craft unit, I note that the Employer voluntarily recognized the Petitioner as the representative of its welders and welders' helpers until 1996 in accordance with Section 8(f) of the Act. Although an 8(f) agreement is not a conclusive factor in determining the appropriateness of a unit, see *Alley Drywall*, 333 NLRB 1005, 1007 (2001), the prior bargaining relationship further persuades me that it is appropriate to include welders' helpers in the unit.

### **SINGLE HAND WELDERS**

The final issue involves whether single hand welders should be included in the unit. The Employer's current complement of welders includes only rig welders, which are welders who own and operate their own rigs and are paid a fee—\$13.00 in the present case—in addition to their hourly wages for operating their own rig. Single hand welders, on the other hand, do not

own their own rigs but, rather, operate rigs provided by their employer. The Employer has not employed any single hand welders since 1995. Jerry Ryan, an organizer employed by the Petitioner, testified that single hand welders are very uncommon in the pipeline industry.

When soliciting and interviewing welding applicants, the Employer does not specifically seek rig welders and it does not discourage single hand welders from applying. Furthermore, the Employer maintains five rigs--four trailers containing rigs and one rig mounted to the bed of a pickup truck--in the event that it hires a single hand welder.

The Board's typical practice is to refrain from making findings about a vacant classification if it is unlikely to be filled in the near future. See, e.g. *Westinghouse Air Brake Co.*, 121 NLRB 636, 641 fn. 17 (1958). On the other hand, if an employer intends to fill a vacant classification, the Board will make a unit determination. See *Toledo Hosp.*, 312 NLRB 652, 652 fn. 1, 653 (1993).

The absence of a single hand welder since 1995 certainly casts doubt on the prospect of the Employer hiring a single hand welder in the near future. Nevertheless, it is impossible to ignore the Employer's willingness to hire single hand welders, especially considering that it has ample equipment to accommodate welders who do not own their own rigs.

In determining that single hand welders should be included in the unit, I am persuaded by the fact that the record reveals that there is no distinction between the work that rig welders and single hand welders perform. As the Employer is open to hiring both rig welders and single hand welders, it is reasonable to assume, notwithstanding recent history, that the Employer will at some point in the future hire a single hand welder. Accordingly, because rig welders and single hand welders perform the same work, I will include single hand welders in the unit.

**CONCLUSION**

The record establishes that welders are a distinct and homogenous group of skilled craftsmen, who, along with welders' helpers, are primarily engaged in the performance of tasks that are not performed by other employees and that require the use of substantial craft skills and specialized tools and equipment. Furthermore, as discussed above, I find that it is appropriate to include the classification of single hand welders in the unit. By stipulation during the hearing, the parties agreed that, although the Employer is engaged in the building and construction industry, the Board's standard eligibility rules shall apply, and the formulas announced in *Steiny & Company*, 308 NLRB 1323 (1992) and *Daniel Construction Company*, 133 NLRB 264 (1961), as modified at 167 NLRB 1078 (1967), shall not apply. Accordingly, I shall direct an election.

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